

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1649 OF 2017

- 1] Mohd.Wajid s/o. Abdul Rauf Qureshi,
aged about 33 years, Occ-Khatik.
- 2] Abdul Rauf s/o. Mohd. Yusuf Qureshi,
aged about 63 years, Occ-Khatik.
- 3] Mohd. Javed s/o. Abdul Rauf Qureshi,
aged about 26 years, Occ-Student.
- 4] Khurshida Begum w/o. Abdul Rauf
Qureshi, aged about 61 years,
Occ-Household.
- 5] Tabassum d/o. Abdul Rauf Qureshi,
aged about 27 years, Occ-Household

All R/o. Near Kasabpura Masjid,
Mominpura, Nagpur.

.. PETITIONERS
[Ori.Accused]

VERSUS

- 1] The State of Maharashtra
Through P.S.O. Police Station Nava
Mondha, Parbhani, Distt-Parbhani.
- 2] Sayema Aiman d/o. Sayeed Ahmed,
Age: 29 Yrs. Occu-Household,
R/o. Near Zakhir Hussain School,
Ganesh Nagar, Parbhani.

..RESPONDENTS

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Mr.R.R.Shaikh, Advocate for the petitioners.
Mr.S.Y.Mahajan, Addl.P.P. for respondent no.1
– State
Mr.P.M.Gaikwad, Advocate for respondent no.2.

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CORAM: V.M.DESHPANDE, J.

DATE : 03.04.2019

ORAL JUDGMENT:

1] Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2] Heard Shri R.R.Shaikh, learned counsel for the petitioners, Shri S.Y.Mahajan, learned Additional Public Prosecutor for respondent no.1 – State and Shri P.M.Gaikwad, learned counsel for respondent no.2.

3] The marriage of respondent no.2 was performed with the petitioner no.1. The petitioner nos. 2 to 4 are the relatives of

the petitioner no.1. All petitioners are resident of Mominpura, Nagpur. After the marriage, respondent no.2 started residing in her matrimonial house at Nagpur. It appears that there was matrimonial discord in the marriage, resulting into lodging the First Information Report by respondent no.2 at Nava Mondha Police Station, Parbhani, on 30.01.2009. On the basis of the said FIR, offence was registered against the petitioners, vide Crime No. 26/2009, for the offences punishable under Sections 498-A, 323, 504, 506 and 34 of the Indian Penal Code. After completion of the investigation, final report was presented in the Court of the learned Magistrate at Parbhani and the case was registered as Regular Criminal Case No.671/2009. During pendency of the said Criminal proceedings, the petitioners filed an application for discharge [Exhibit-22].

Apart from merit, bone of the contentions of the petitioners before the learned Judge of the Court below was that the Court has no jurisdiction in view of the fact that the perusal of the entire charge-sheet would show all the alleged acts are committed at Nagpur and not within the territorial jurisdiction of the Parbhani Court. The learned Magistrate on 15.11.2012 rejected the said application, giving rise to the Revision i.e. Criminal Revision Application No.04/2013 before the learned Sessions Court at Parbhani and the said Revision also received the same fate at the hands of the learned Sessions Judge at Parbhani on 15.09.2017. Feeling aggrieved thereby, the present Writ Petition is filed.

4] After hearing the learned counsel for the parties and after perusing the relevant documents to decide this particular Writ Petition, it is clear that all alleged

atrocities, alleged demand by the petitioners to the respondent no.2 were made and done at Nagpur only. The learned counsel for the respondent no.2 heavily relies on the statement of Ayesha Aslam Ansari, which is at Page-65 of the compilation. The statement of this lady was recorded by the Police Officer at Nava Mondha Police Station, Parbhani on 24.02.2009. There is no dispute in between the petitioners and respondent no.2 that Ayesha is not in any way related to the petitioners. Her statement would show that she is a social worker and the President of one Organization called as 'Muslim Khatun', a registered Organization. Her statement would show that she knows the petitioner no.1, whose marriage was performed at Parbhani and due to the matrimonial discord in order to reconcile amongst husband and the wife, a meeting [Panchayat] was called at

Nagpur, however, the dispute was not resolved. Therefore, from the side of respondent no.2, a complaint was lodged with Nava Mondha Police Station, Parbhani, and in that the petitioners were called, however, they did not attend but Ayesha attended for and on behalf of them, and she submitted that the petitioners will not attend the said centre. Except this, there is nothing in her statement. The perusal of the statement of Smt.Ayesha in the background fact that she is not related to the petitioners, it cannot be said that she was responsible for any act on their behalf. However, this Ayesha is also not made as an accused in the proceedings.

5] The law on this issue of jurisdiction is well crystallized that only the Court is having jurisdiction within whose jurisdiction the offence has occurred. The offence may occur at different place, giving

jurisdiction to the different courts in such situation any Court where a part of the offence is committed will have territorial jurisdiction to hold and conduct trial. Similarly, the Police Officer will be entitled to investigate into the matter in whose jurisdiction the alleged offence has taken place. The law laid down by the Hon'ble Apex Court in the case of *Bhura Ram & Ors. Vs. State of Rajasthan & anr.*, reported in *AIR 2008 SC 2666*, is rightly relied on by the learned counsel for the petitioners.

6] Looking to the fact that the entire alleged acts on the part of the petitioners occurred at Mominpura, Nagpur, and no incident whatsoever of either alleged ill-treatment, cruelty, alleged demand has occurred within territorial jurisdiction of the Parbhani Court, in my view, the learned Magistrate at Parbhani has no jurisdiction to

try and decide the matter. Consequently, I pass the following order:

ORDER

i] The order dated 15.11.2012 passed below Exh.22, by the learned 7th Judicial Magistrate First Class, Parbhani in Regular Criminal Case No.671/2009 and the order dated 15.09.2017 passed by the learned Sessions Judge, Parbhani in Criminal Revision No.04/2013, are quashed and set aside.

ii] Regular Criminal Case No. 671/2009, pending on the file of the learned Judicial Magistrate First Class, Parbhani, is directed to be transferred on the file of the Chief Judicial Magistrate at Nagpur, who shall in turn either decide the said complaint in accordance with law or shall allot the case to any other Court having jurisdiction.

iii] It shall be open for the petitioners to file appropriate applications before the Nagpur Court.

iv] The Writ Petition is allowed and the same stands disposed of, accordingly.

v] The Rule is made absolute on above terms.

[V.M.DESHPANDE]
JUDGE

DDC